

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 3761

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REMARKS/ARGUMENTS

JUL 26 2007

Rejection of Claims 31, 32, 36, and 42 Under 35 U.S.C. sec. 102(e)

In an Office Action dated 30 May 2007, the Examiner rejected the above-identified claims as anticipated by U.S. Patent Application Publication Number 2003/0216705 to Coates (the "Coates" reference). We respectfully disagree with the Examiner's analysis and ask that this rejection be withdrawn.

We continue to believe the Coates reference fails to disclose an absorbent pad defining a front region and a back region, with the "back region terminating in the crotch region of the garment shell . ." (See claim 31 in the present application.) The Abstract and drawings in Coates generally show and describe a "sling" with two opposed "pocket parts" for retaining a fluid absorbent pad extending through the crotch region rather than terminating at the crotch region. (See Abstract and drawings.) By comparison, currently amended claim 31, and the drawings, clearly depict an absorbent pad having a back region terminating in the crotch region of the garment shell. Accordingly, we respectfully request that the Examiner withdraw this anticipation rejection and allow claims 31, 32, 36, and 42.

Rejection of Claims 1, 2, 4, 13, 14, 15-18, and 37 Under 35 U.S.C. sec. 103

In an Office Action dated 30 May 2007, the Examiner rejected the above-identified claims as obvious over U.S. Patent Application Publication Number 2003/0216705 to Coates (the "Coates" reference) in view of Yamamoto et al. (U.S. Patent Number 5,700,256). We respectfully disagree with the Examiner's analysis and ask that this rejection be withdrawn.

The Coates reference discloses what appears to be a woven "boxer style garment" having a "pocket sling" ("Pocket sling 19 is sewn under or to elastic 11 in the center back of the short 15 at 14A. Pocket sling frontal portion is centered at 49 [i.e., center front in Figure 10] and attached to or under elastic 11."). (See generally col. 4-5, para. 82; and specifically last two lines of this paragraph; text in brackets [] added to clarify location of designator 49.) As stated in our previous response, the Coates reference does not disclose two elastic waistbands as recited in claims 1, 2, 4, 13, 14, 15-18 in the present application. Claim 1 recites the presence of an "elasticized shell waistband" in the garment shell. (See claim 1.) That's the first waistband. Claim 1 also recites the presence of an "elasticized support waistband" in the inner absorbent assembly. (*Id.*) That's the second waistband. Coates fails to disclose, teach, or suggest two elasticized waistbands. Instead the cited reference notes that the pocket sling is attached to, or under, the elastic 11, which is designed to "hold the pant to the body of the wearer." (See col. 4-5, para. 82.) In other words, there is a single elastic waistband, attached to the pant, to which the sling is then attached.

Yamamoto appears to disclose an apparatus for suspending an absorbent pad from an annular elastic waistband and elastic suspending straps. (Col. 1, lines 62-64.) Nowhere does Yamamoto teach or suggest that this assembly be used in combination with a garment shell. In fact, Yamamoto teaches away from more complicated articles:

"The present invention relates to so-called disposable absorbent pads, particularly such as incontinence pads, sanitary pads or menstruation pads, adapted to be used once and thrown away." (Col. 1, lines 8-11.)

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Each of the claims recites the purported invention as being a pad. And the inventors distinguish between their pad and other articles:

"[T]here are several articles of prior art used as incontinence guards which are partially similar in their constructions to a disposable absorbent pad of the present invention." (Col. 1, lines 12-14.)

The patent does recite that the pad may be used independently or with "a separately provided outer cover," if it is desired. (Col. 2, lines 25-27.) The meaning of this statement is unclear, as the term "outer cover" is not defined in the patent. In the field of disposable absorbent articles the term "outer cover" often refers to a liquid-impermeable backsheet (with an absorbent core sandwiched between the liquid-impermeable backsheet and liquid-permeable liner). Regardless, there is no teaching or suggestion that a person of ordinary skill take the simple pad suspension assembly of Yamamoto and make it into a more complicated garment. Similarly, nowhere does Coates teach or suggest that the disclosed full-fledged, diaper-like absorbent article be modified so that one or more parts of the nonwoven chassis to which the absorbent is attached is replaced with one or more elastomeric elements, especially a second elastomeric waistband.

Accordingly, we respectfully request that the Examiner withdraw this obviousness rejection and allow claims 1, 2, 4, 13, 14, 15-18.

Claim 37 depends from claim 31. Claim 31 recites the presence of an absorbent pad defining a front region and a back region, with the "back region terminating in the crotch region of the garment shell . . ." (See claim 31 in the present application.) Coates, alone or in combination with Yamamoto, fails to disclose, teach, or suggest an absorbent pad having a back region terminating in the crotch region. Instead, as discussed above, the entire Coates disclosure appears to be disclosed to an article having a sling with opposed pocket parts for retaining a fluid absorbent pad that extends through the crotch region. Similarly, Yamamoto discloses a pad assembly in which the absorbent pad extends through the crotch region. Accordingly, we respectfully request that the Examiner withdraw this obviousness rejection and allow claim 37.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-2747.

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